

# **EXHIBIT 26**

**To  
PLAINTIFF'S LOCAL RULE 56.1(b)(3)(C) STATEMENT OF ADDITIONAL FACTS  
REQUIRING DENIAL OF THE CITY'S MOTION FOR PARTIAL SUMMARY  
JUDGMENT**

**March 15, 2016**

**Case No. 14-CV-4391**

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

NICOLE HARRIS, )  
Plaintiff, )  
v. ) No. 14-cv-4391  
CITY OF CHICAGO; Chicago )  
Police Officers ROBERT BARTIK, )  
DEMOSTHENES BALODIMAS, ROBERT )  
CARDARO, JOHN J. DAY, JAMES M. )  
KELLY, ANTHONY NORADIN, and )  
RANDALL WO; Assistant Cook )  
County State's Attorneys )  
ANDREA GROGAN and LAWRENCE )  
O'REILLY, and THE COUNTY OF COOK,)  
Defendants. )

The video deposition of JAMES K. HICKEY, called for examination pursuant to the Rules of Civil Procedure for the United States District Courts pertaining to the taking of depositions, taken before Tracy Jones, a Certified Shorthand Reporter within and for the County of Cook and State of Illinois, at 1180 North Milwaukee Avenue, 4th Floor, Chicago, Illinois, on the 21st day of January, 2016, at the hour of 9:18 o'clock a.m.

Reported by: Tracy Jones, CSR, RPR, CLR  
License No.: 084-004553



1 when it was located at Pershing Road?

2 A. I was not.

3 Q. Do you have any particular expertise  
4 with respect to polygraph examination?

5 A. I do not.

6 Q. Could you please tell me about any  
7 general orders that related to polygraph  
8 examination or the Polygraph Unit from 1998 to  
9 the present.

10 MS. FORDYCE: Objection: Calls for a  
11 narrative.

12 THE WITNESS: There are very few reference to  
13 the Polygraph Unit or polygraph examinations in  
14 our department directives system. Mostly, they  
15 are in reference to organizational placement,  
16 organizational charts, and description of units  
17 which have responsibility for conducting  
18 polygraph exams. And there is some incidental  
19 reference for job titles, not for polygraph  
20 examiners but for police laboratory technician,  
21 supervisory titles. There's some vague  
22 reference to a polygraph overview of  
23 responsibility.

24 And it's also mentioned in the



1 Electronic Recorded Interrogations Directive as  
2 well.

3 BY MS. SUSLER:

4 Q. Do you know that -- numbers or titles  
5 of any of the directives that you're referring to?

6 A. At this time, I do not.

7 Q. Okay. And is that the sum total of  
8 your knowledge of any special orders or  
9 directives that the Chicago Police Department  
10 has with respect to Polygraph Unit or polygraph  
11 examination from 1998 to the present?

12 MS. FORDYCE: Object to the form.

13 THE WITNESS: There are directives which may  
14 not be on point directly on the topic of  
15 polygraph examination. But as members of the  
16 police department, everyone has  
17 responsibilities. So, in effect, you could say  
18 yeah, it affects polygraph examiners. But it  
19 affects all members of the police department.

20 So I don't know if I could agree that  
21 those are the only ones that ...

22 BY MS. SUSLER:

23 Q. All right. Other than the fact that  
24 every -- every Chicago Police Department general



1 order applies to anybody who works for the  
2 Chicago Police Department, are there any other  
3 directives or general orders in the Chicago  
4 Police Department with respect to the Polygraph  
5 Unit or polygraph examination from 1998 through  
6 the present?

7 A. Yes. There are --

8 MS. FORDYCE: Objection to the form.

9 THE WITNESS: There are a couple standard  
10 operating procedures manuals.

11 BY MS. SUSLER:

12 Q. Is it two separate things you're  
13 talking about, standard operating procedures and  
14 manuals?

15 A. No. It was two -- There were two  
16 issued during this time period.

17 MS. FORDYCE: Mr. Hickey, I know it's  
18 difficult. But please let's let Jan finish her  
19 question before you answer. The court reporter  
20 will be most appreciative.

21 BY MS. SUSLER:

22 Q. Any other directives or general orders  
23 with respect to Polygraph Unit or polygraph  
24 examination from 1998 to the present that you



1 haven't already told me about?

2 MS. FORDYCE: Object to form; asked and  
3 answered.

4 THE WITNESS: At this time, I can't think of  
5 any others.

6 BY MS. SUSLER:

7 Q. Is there anything that would refresh  
8 your recollection?

9 A. Not at this time.

10 Q. Let me show you what we will mark as --  
11 I don't even know the exhibit numbers.

12 (Whereupon, a discussion was had  
13 off the record.)

14 (Whereupon, Hickey Deposition  
15 Exhibit No. 127 was marked for  
16 identification.)

17 MS. SUSLER: And for the record, and for  
18 those of you on the phone, this is City 8551  
19 through 8558, titled Addendum to General Order 0301,  
20 effective date, March 26, 2003, which was  
21 provided last night for the first time.

22 BY MS. SUSLER:

23 Q. Do you recognize what I've handed you  
24 as Exhibit 127, Mr. Hickey?



1           A.     I do.

2           Q.     All right. Is this one of the  
3 directives that you testified about that mostly  
4 refers to organizational placement?

5           A.     It is.

6           Q.     And if you look at page City 8555 in the  
7 lower right-hand corner, it says, Section (c):  
8 Forensics Unit -- Section. And if you look down  
9 to paragraph 1(f), it says: The polygraph team  
10 administers forensic polygraph examinations to  
11 assist Department units with their investigative  
12 needs.

13                   Right?

14           A.     Right.

15           Q.     Is there -- And basically, what this  
16 exhibit tells us is that the polygraph team is  
17 within the Forensics Section?

18           MS. FORDYCE: Objection. The document speaks  
19 for itself.

20           THE WITNESS: In this time period.

21           BY MS. SUSLER:

22           Q.     Yes. And that is effective date  
23 March 26, 2003?

24           A.     Correct.



1 Q. Okay. Do you know where the Polygraph  
2 Unit was before this?

3 A. Frankly, I don't know where the  
4 Polygraph Unit was even at this moment. I know  
5 they moved a few times.

6 Q. It was bad question. I meant  
7 organizationally; I didn't mean physically.

8 A. Before this, yes, I do.

9 Q. Okay. Where -- what section or part of  
10 the police department was the polygraph team in?

11 MS. FORDYCE: Objection to the form.

12 THE WITNESS: The prior organizational chart  
13 had the Forensic Services Division called by a  
14 different name. It was called the Crime  
15 Laboratory Division. And instead of reporting  
16 to the Detective Division, it reported to the  
17 Bureau of Technical Services.

18 BY MS. SUSLER:

19 Q. Okay. What we see here as of 2003 is a  
20 change from -- from that?

21 A. It documented the change. That change  
22 actually occurred, I believe, in about 1999.

23 Q. Okay. And as far as you can see in  
24 Exhibit 127, is there any other reference to





1 Polygraph Unit or the polygraph team or  
2 polygraph examination?

3 A. There --

4 MS. FORDYCE: Objection: The document speaks  
5 for itself.

6 THE WITNESS: There is not.

7 BY MS. SUSLER:

8 Q. Okay. Let's mark this as Exhibit 128.

9 (Whereupon, Hickey Deposition  
10 Exhibit No. 128 was marked for  
11 identification.)

12 MS. SUSLER: And for those of you on the  
13 phone and for the record, this is City 8559  
14 through 8566, titled Addendum to General Order 0401,  
15 effective date 01 January 2004, which we also  
16 received for the first time last evening.

17 BY MS. SUSLER:

18 Q. Do you recognize what I've handed you,  
19 Mr. Hickey?

20 A. I do.

21 Q. And is this a sequel to Exhibit 127?

22 MS. FORDYCE: Objection to the form.

23 THE WITNESS: It is.  
24



1 BY MS. SUSLER:

2 Q. And is this another example of, as you  
3 testified earlier, a directive that really  
4 refers to organizational placement?

5 A. It is.

6 Q. Okay. And if you look at City 8561,  
7 you'll see again in Paragraph (f) there: The  
8 polygraph team administers forensic polygraph  
9 examinations to assist Department units with  
10 their investigative needs.

11 Did I read that correctly?

12 A. You did.

13 Q. All right. Is there any other  
14 reference to anything with respect to polygraph  
15 in Exhibit 128?

16 A. There is not.

17 Q. How, if at all, is what's represented  
18 in Exhibit 128 with respect to the polygraph  
19 team different from what is -- appears in  
20 Exhibit 127?

21 A. There is no difference.

22 Q. Okay. Let me show you what's already  
23 been marked as Exhibit 38.

24 Do you want to move your glasses so I



1 don't bump them.

2 Do you recognize what I've handed you?

3 A. I do.

4 Q. What is that?

5 A. This is a Bureau of Technical Services,  
6 Division Forensic Services -- Excuse me. Bureau  
7 of Technical Services, Forensic Services  
8 Division Standard Operating Procedure.

9 Q. Is this one of the two standard  
10 operating procedures that you testified about  
11 earlier?

12 A. Right.

13 Q. And is this one that was in effect  
14 since 1999 -- I'm sorry, 1998?

15 A. Prior to 1999, yes.

16 Q. Okay. And if you look at the last  
17 page of -- of it, City 1450, it indicates --  
18 it says there at the left margin:  
19 polygraph 02 November 1998?

20 A. It does.

21 Q. Is that the effective date of this SOP?

22 A. It would presume to be so.

23 Q. Do you know whether --

24 A. I -- I do not.



1 Q. what's the significance of that date on  
2 the document?

3 A. Someone was trying to create a marker  
4 in time.

5 The SOP is but one chapter in a larger  
6 document, the SOP for Forensic Services, the  
7 S -- Polygraph Unit. So this is but one section  
8 of a larger document.

9 Q. And could you explain what that larger  
10 document was? Was it the Bureau of Technical  
11 Services, Forensic Services Division Manual?

12 A. Forensic Services Division Standard  
13 Operating Procedures Manual.

14 Q. So the manual had other SOPs related to  
15 other teams or functions within the Forensic  
16 Services Division?

17 A. Correct.

18 Q. Was there anything else, if you know,  
19 in that manual that applied to or addressed in  
20 any way the Polygraph Unit or polygraph  
21 examinations?

22 A. There is not and would not have been.

23 Q. Do you know who wrote Exhibit 38?

24 A. I do not.



1 Q. Do you know whether any polygraph  
2 examiner was consulted in the creation of  
3 Exhibit 38?

4 A. I do not personally know. I cannot  
5 imagine it being published without their input.

6 Q. Do you have any knowledge whether any  
7 polygraph examiner was consulted in the creation  
8 of Exhibit 38?

9 A. I do not have personal knowledge of  
10 that.

11 Q. Can you identify anybody in the Chicago  
12 Police Department who would have that knowledge?

13 A. I cannot.

14 Q. Did you know a Commander Cronin?

15 A. Thomas Cronin; yes, I did.

16 Q. Was he a polygraph examiner?

17 A. He was not.

18 Q. Let me direct your attention to the  
19 second page of Exhibit 38, at the top, where it  
20 says: Subject suitability.

21 Right here.

22 A. Okay.

23 Q. Okay? And it says: Some subjects may  
24 not be suitable candidates for polygraph



1 examination at the time of the request. The  
2 suitability of the subject will be left to the  
3 discretion of the examiner.

4 Did I read that right?

5 A. You did.

6 Q. What, if any, guidelines existed at the  
7 time this SOP was in effect to instruct the  
8 polygraph examiner how to exercise his  
9 discretion?

10 MS. FORDYCE: Objection to the form. When  
11 you say guidelines, are you talking specifically  
12 CPD guidelines?

13 MS. SUSLER: Yes. Thanks for clarifying.

14 THE WITNESS: The -- This would be it for CPD  
15 guidelines. Of course, there are the -- their  
16 own State training.

17 BY MS. SUSLER:

18 Q. What State training are you referring  
19 to?

20 A. Their certification as polygraph  
21 examiners.

22 Q. Do you know what, if any, training the  
23 state provided to any polygraph examiners who  
24 ever worked at the Chicago Police Department?



1           A.     It's different schools which are  
2     license -- which issue the license for the  
3     polygraph examiners.

4           Q.     The schools issue the licenses?

5           A.     No. The State of Illinois issues  
6     licenses for those who have attended accredited  
7     polygraph schools.

8           Q.     What, if anything, did the Chicago  
9     Police Department do at any time in the history  
10    of having polygraph examiners work for the  
11    police department to determine whether the  
12    polygraph schools attended by those people were  
13    accredited?

14          MS. FORDYCE: Okay. Objection to the form  
15    and objection to the extent you're asking him  
16    information beyond the temporal scope of the  
17    30(b)(6) notice.

18          MS. SUSLER: Fine. I'm happy to limit it to  
19    the scope of the notice, which was 1998 to the  
20    present.

21    BY MS. SUSLER:

22          Q.     Do you remember the question?

23          A.     Chicago Police Department does not  
24    review the accreditations of schools except in



1 one matter. I think tuition reimbursement, they  
2 want schools to be accredited by the various  
3 regional accreditations organizations as a  
4 criteria for tuition reimbursement.

5 Q. Other than for purposes of tuition  
6 reimbursement, are you aware of what, if  
7 anything, the police department does to  
8 determine whether the schools attended by  
9 polygraph examiners who work for the Chicago  
10 Police Department are accredited?

11 A. I am not aware of anything.

12 Q. And is what you're saying about the  
13 tuition reimbursement, is that documented  
14 somewhere?

15 A. Yes, it is.

16 Q. Where?

17 A. We have a directive on the topic of  
18 tuition reimbursement.

19 Q. And that says where it would be  
20 documented what the police department did to  
21 determine whether the schools to which they  
22 provided tuition reimbursement were  
23 accredited --

24 MS. FORDYCE: Objection to the form.





1 were in effect in May of 2005?

2 A. I am not aware of anything superseding  
3 this document. This is 2005 -- This is 2011.  
4 We want to go back --

5 Q. Exhibit 38, the one before that --

6 A. 38.

7 Q. -- had the date on the last page of  
8 1998.

9 A. Right. So this Exhibit 38 would be the  
10 governing directive or SOP.

11 Q. And you're saying that because you're  
12 looking at the date on the document?

13 A. I am.

14 Q. And not because you have any specific  
15 knowledge about it?

16 A. Correct.

17 Q. All right. And other than the -- Let's  
18 just exclude all of the general orders and  
19 directives and special orders and every other  
20 kind of thing that applies to the entire police  
21 department. Let's just focus on polygraph  
22 examiners in the Polygraph Unit. Other than  
23 Exhibits 127, 128, 38, and 39, are you aware of  
24 any other directives, general orders, that apply



1 to the Polygraph Unit or polygraph examiners in  
2 the police department?

3 MS. FORDYCE: Objection to the form.

4 THE WITNESS: There is a reference to  
5 polygraph examinations in the Complaint and  
6 Disciplinary Directive under Special Situations.

7 BY MS. SUSLER:

8 Q. And is that that police department --  
9 police officers are not subject --

10 A. Right. But I would think that probably  
11 the broader population of police officers may be  
12 subjected to a polygraph given certain  
13 circumstances. But it really is not a directive  
14 governing or guiding polygraph examiners.

15 Q. Yeah. It's really just limiting the  
16 circumstances under which a police officer can  
17 be subjected to a polygraph exam?

18 A. Right.

19 MS. FORDYCE: Objection. Belated objection:  
20 Misstates the evidence in the record, and the  
21 document in question speaks for itself.

22 (Whereupon, Hickey Deposition  
23 Exhibit No. 129 was marked for  
24 identification.)



1 BY MS. SUSLER:

2 Q. Let me show what you we'll mark as  
3 Exhibit 129.

4 I'm showing you, Mr. Hickey, what is  
5 Bates stamped in the bottom right-hand corner as  
6 City 8053 through 80 -- I'm sorry, 8060.

7 And I will represent to you that these  
8 were produced to us as the performance  
9 evaluation summaries for Lori Rice, L-O-R-I,  
10 Rice, R-I-C-E.

11 Have you ever seen performance  
12 evaluation summaries before?

13 A. I have.

14 Q. Let me ask you to look at that first  
15 page, 8053, right about in the middle where --  
16 where it says: Adaptability, responsiveness:  
17 Meets expectations.

18 And I'm going to just read to you. Do  
19 you see where I am?

20 A. I am.

21 Q. She adjusts as needed and is  
22 consistently reliable and operates within  
23 department and polygraph guidelines.

24 Did I read that correctly?



1 A. You did.

2 Q. Do you know what, if any, polygraph  
3 guidelines are referred to here?

4 A. It would probably be the SOPs.

5 Q. You're guessing?

6 A. Yes.

7 Q. Do you have any knowledge of whether,  
8 in fact, in -- this looks like an August 21st of  
9 2013 evaluation, there were any other polygraph  
10 guidelines other than what you testified about  
11 this morning?

12 A. Not by the Chicago Police Department,  
13 but by the standards under which they operate  
14 and keep -- maintain their license.

15 Q. It indicates here on that same page of  
16 Exhibit 129 that Tracey Ladner was the person  
17 doing this evaluation. Do you know whether  
18 Tracey Ladner was a polygraph examiner?

19 A. She was not.

20 Q. Do you know whether she had any  
21 knowledge of what polygraph guidelines were at  
22 the time?

23 MS. FORDYCE: Objection. This question is  
24 outside the scope of the 30(b)(6) notice as to



1 Tracey Ladner's personal knowledge.

2 He's going to have to answer on his  
3 personal knowledge.

4 THE WITNESS: As an attorney, she probably  
5 had the skills to look up the license  
6 requirements for polygraph examiners. And as  
7 the Director of Human Relations, she should have  
8 been aware of SOPs.

9 BY MS. SUSLER:

10 Q. But do you have any personal knowledge  
11 that Ms. Ladner knew -- had any knowledge about  
12 what polygraph guidelines were?

13 MS. FORDYCE: Same objections.

14 THE WITNESS: I do not.

15 BY MS. SUSLER:

16 Q. Let me direct your attention to  
17 Exhibit 29, the 4th page, which is Bates stamped  
18 City 08056.

19 And this is another performance  
20 evaluation summary of Lori Rice. Appears to be  
21 done February 2nd, 2012, by Barbara West. And  
22 about the same place in the page as on that  
23 first page, looks like Ms. West has written:  
24 She is able to adapt to challenges faced and



1 makes adjustments while keeping in compliance  
2 with departmental and polygraph standards.

3 Do you see that?

4 A. I do.

5 Q. And do you know what polygraph  
6 standards are referred to here?

7 MS. FORDYCE: Objection. This is outside the  
8 scope of the 30(b)(6) notice.

9 MS. SUSLER: Well, I disagree. I'm trying to  
10 find out what -- what exists in the way of  
11 departmental guidelines and general orders. And  
12 if there is a polygraph standard that the police  
13 department has generated here that's being  
14 addressed here, I would like to know what it is.

15 MS. FORDYCE: You can ask about that. But  
16 your question specifically was what was Barbara  
17 West referring to in this specific evaluation  
18 when she referred to departmental and polygraph  
19 standards. That's outside the scope.

20 MS. SUSLER: That's true. Okay.

21 MS. FORDYCE: I'm going to let him answer,  
22 but he's not going to be able to answer in his  
23 capacity as a 30(b)(6).

24 THE WITNESS: The SOPs and their professional



1 and answered.

2 THE WITNESS: I am not aware of any.

3 BY MS. SUSLER:

4 Q. And can you identify anybody else in  
5 the Chicago Police Department who could?

6 A. No, ma'am.

7 Q. What national standards with respect to  
8 polygraph examination existed in 2005?

9 MS. FORDYCE: Objection. This question is  
10 outside the scope of the 30(b)(6). He can only  
11 answer in his personal capacity.

12 THE WITNESS: I'm not aware of any national  
13 standards. I have no personal knowledge.

14 BY MS. SUSLER:

15 Q. Do you know whether anyone in the  
16 Chicago Police Department does within 1998 to  
17 the present?

18 MS. FORDYCE: Same objection.

19 THE WITNESS: I would not know.

20 BY MS. SUSLER:

21 Q. In 2005, who, if anyone, in the Chicago  
22 Police Department was responsible for being  
23 aware of national standards with respect to  
24 polygraph examinations?



1 MS. FORDYCE: Same objection.

2 THE WITNESS: Polygraph examination is  
3 governed by State law, not any federal or  
4 national standard. So there would be no  
5 obligation to be tracking information on a  
6 national level which pertains to polygraph  
7 examinations.

8 BY MS. SUSLER:

9 Q. Well, you may have already answered  
10 this. But who, if anyone, in the Chicago Police  
11 Department -- and my questions will be between  
12 1998 and the present -- was responsible for  
13 ensuring that the Chicago Police Department  
14 Polygraph Unit and polygraph examiners met  
15 national standards?

16 MS. FORDYCE: So objection, because you're  
17 asking about the whole Chicago Police  
18 Department. I think your 30(b)(6) was narrowed  
19 to the Polygraph Unit. So I'm going to object  
20 as outside of the scope, and he can answer in  
21 his personal capacity. If you change your  
22 question to who in the Polygraph Unit was  
23 responsible for that, then I think it's an  
24 appropriate question within the 30(b)(6) notice.





1 MS. SUSLER: well, the way the notice read  
2 was -- and I have it here -- it was about the --

3 MS. FORDYCE: You know what? I'll withdraw  
4 that objection.

5 MS. SUSLER: Thank you.

6 BY MS. SUSLER:

7 Q. Do you want the question read back to  
8 you?

9 A. If there was a national mandate on  
10 polygraph examinations, it probably would be  
11 codified in law or some regulatory act. And  
12 normally, such changes, revisions, or new  
13 requirements are communicated to the Chicago  
14 Police Department through our Legal Affairs  
15 office.

16 Q. Who in the Chicago Police Department  
17 was responsible for determining whether the  
18 practice of the Polygraph Unit and its polygraph  
19 examiners complied with State law?

20 MS. FORDYCE: Objection to the form.

21 THE WITNESS: The individual polygraph  
22 examiners had a professional obligation to  
23 follow whatever standards are issued by the  
24 State law. If, in fact, it's a new State law



1 which might affect the Polygraph Unit to change  
2 something, such as electronic recorded  
3 interrogations was a State law intended to  
4 videotape the interrogation of those being  
5 investigated for murder violations, but it also  
6 spilled over into those conducting the  
7 investigations through polygraph if, in fact, it  
8 was a homicide investigation.

9           So that would be an example where Legal  
10 Affairs would inform members -- select members  
11 of the police department, there's been a change;  
12 there's something you need to know about.

13 BY MS. SUSLER:

14           Q.    What, if anything -- well, let me ask  
15 it this way first: who -- who, if anyone, in  
16 the police department was responsible for  
17 determining whether the Polygraph Unit and its  
18 examiners complied with State law other than  
19 leaving it to the individual polygraph examiner  
20 to meet his or her professional  
21 responsibilities?

22           MS. FORDYCE: Objection to the form; asked  
23 and answered; misstates prior testimony.

24           THE WITNESS: The supervisors of the



1 Polygraph Unit would have some supervisory  
2 responsibility if it was something they had  
3 observed that might be a deviation from a State  
4 law or department policy.

5 BY MS. SUSLER:

6 Q. What did the police department do to  
7 determine whether the supervisors of the  
8 Polygraph Unit had any knowledge about State law  
9 with respect to polygraph?

10 A. Again, if there is a legally mandated  
11 change, it is communicated from the Legal  
12 Affairs office of the police department.

13 MS. FORDYCE: I need to take a quick,  
14 five-minute break.

15 MS. SUSLER: All right.

16 THE VIDEOGRAPHER: Off the record, 10:13.

17 (Whereupon, a short break was  
18 taken.)

19 (Whereupon, the record was read  
20 as requested.)

21 THE VIDEOGRAPHER: Back on the record, 10:21.

22 BY MS. SUSLER:

23 Q. Mr. Hickey, other than being notified  
24 through some sort of general order, as you gave



1 the example, the -- I think it was effective in  
2 July of 2005, the electronic recording or  
3 digital recording of homicide investigations and  
4 interrogations and polygraph examinations  
5 related to those investigations, is there  
6 anything else that the police department did to  
7 ensure that the supervisors of the Polygraph  
8 Unit or the individual examiners were aware of  
9 State law applicable to polygraph examinations?

10 MS. FORDYCE: Objection to the form; asked  
11 and answered.

12 THE WITNESS: I am not aware of anything  
13 else.

14 BY MS. SUSLER:

15 Q. Is there anyone else in the police  
16 department who would be?

17 A. No, ma'am.

18 Q. Is there any documentation that you're  
19 aware of that anyone ever reviewed in any way  
20 the Polygraph Unit to determine whether the unit  
21 and the individual examiners were complying with  
22 State law?

23 MS. FORDYCE: Objection to the form.

24 THE WITNESS: Reviewing the unit. What do



1 you mean by that?

2 BY MS. SUSLER:

3 Q. Taking a look. Any kind of analysis,  
4 examination, quality control, in any way doing  
5 anything to determine whether the unit and the  
6 individual examiners were operating in  
7 compliance with State law.

8 MS. FORDYCE: Objection to the form.

9 THE WITNESS: No.

10 BY MS. SUSLER:

11 Q. Okay. And the same question with  
12 respect to national standards.

13 A. No.

14 Q. Was there ever in the -- between '98  
15 and the present any kind of written job or post  
16 description for polygraph examiner?

17 A. No. Polygraph examiners is not a title  
18 so much as it is a function. It's -- You  
19 don't -- You can be a police officer or, in  
20 theory, a detective or a sergeant, I suppose,  
21 and be a licensed polygraph examiner. It's a  
22 skill set and not so much a title.

23 Q. So the answer is no?

24 A. No.



1 Q. Did the department have any written  
2 criteria for the polygraph examination function?

3 MS. FORDYCE: And just so I can not do this  
4 objection, you're always talking 1998 to the  
5 present unless you specify a different time  
6 frame?

7 MS. SUSLER: Yes. Yes. Thank you.

8 THE WITNESS: I'm not aware of anything.

9 BY MS. SUSLER:

10 Q. How about criteria for retention as a  
11 polygraph examiner?

12 MS. FORDYCE: Objection to form.

13 THE WITNESS: The department has an overall  
14 general requirement to evaluate personnel.

15 BY MS. SUSLER:

16 Q. In their capacity as a police officer  
17 or sergeant, lieutenant?

18 A. In their specific assignment, whether  
19 it be a police officer or a polygraph examiner.

20 Q. Could you tell me what those are with  
21 respect to polygraph examiner?

22 A. They are not unique. It's the general  
23 traits.

24 Q. So nothing that specifically applies to



1 polygraph examination?

2 A. Correct.

3 Q. Are there any other functions within  
4 the police department that, like polygraph  
5 examination, that have no criteria or job  
6 description?

7 MS. FORDYCE: Objection to the form;  
8 misstates prior testimony; misstates facts in  
9 the record.

10 THE WITNESS: Lawyers --

11 BY MS. SUSLER:

12 Q. Any others?

13 A. -- in Legal Affairs.

14 Firearm -- I'm not --

15 MS. FORDYCE: Before you continue -- and I'll  
16 let him finish -- also object that that's  
17 outside of the scope of the 30(b)(6).

18 THE WITNESS: You're asking me if there is  
19 posted what?

20 BY MS. SUSLER:

21 Q. You said that there was no job  
22 description because polygraph examiner isn't a  
23 job title, it's a function?

24 A. Right.



1 BY MS. SUSLER:

2 Q. Do you know whether any -- anyone who  
3 supervised a polygraph examiner was ever a  
4 polygraph examiner him or herself?

5 A. I don't know.

6 Q. Are you aware of any -- anyone who  
7 supervised a polygraph examiner who was a  
8 polygraph examiner him or herself?

9 MS. FORDYCE: Objection to the form.

10 THE WITNESS: I'm not aware of any.

11 BY MS. SUSLER:

12 Q. In Exhibits 38 and 39, if you want to  
13 turn to those, I don't -- I don't want to make  
14 it a pop quiz for you.

15 It looks like in Exhibit 38, that SOP  
16 was when the Polygraph Unit was with the Bureau  
17 of Technical Services, Forensic Division,  
18 correct?

19 A. Correct.

20 Q. And if you look at Exhibit 39, it says  
21 Bureau of Detectives, Forensic Services  
22 Division, correct?

23 A. Correct.

24 Q. Do you know what -- why that change was





1 made?

2 A. Management rights.

3 Q. I'm not sure what you mean.

4 A. The superintendent has the authority to  
5 organize the subunits of the Chicago Police  
6 Department in a manner that he feels  
7 appropriate.

8 Q. And so -- Pardon me.

9 Other than moving from Technical  
10 Services to the Bureau of Detectives, do you  
11 know what, if any, changes obtained with respect  
12 to the Polygraph Unit?

13 MS. FORDYCE: Did you say obtained?

14 MS. SUSLER: Yes.

15 MS. FORDYCE: Objection to the form.

16 THE WITNESS: I see no difference. What  
17 really changed was the ending of the Bureau of  
18 Technical Services.

19 BY MS. SUSLER:

20 Q. When did that bureau end?

21 MS. FORDYCE: Objection. It's outside the  
22 scope of the 30(b)(6).

23 THE WITNESS: To the best of my knowledge, it  
24 was about 1999.



1 BY MS. SUSLER:

2 Q. In 2005, what division or service was  
3 the Polygraph Unit under?

4 A. It was a subunit of the Detective  
5 Division, and the Detective Division reported to  
6 the Bureau of Investigative Services.

7 Q. Well, I just need to clarify.  
8 Exhibit 38, the last page said November 2nd, 1998.

9 A. Correct.

10 Q. And Exhibit 39, the last page said  
11 December 1st, 2011?

12 A. Right.

13 SOPs are not revised at the hour of the  
14 organizational change. They tend to be done  
15 when they get around to it.

16 Q. Okay. So even if it took ten years?

17 A. There is no time limit on SOPs, nor is  
18 there a requirement for them.

19 Q. Other than looking at Exhibits 38 and 39,  
20 are you aware of any changes when the Polygraph  
21 Unit was moved from the Bureau of Technical  
22 Services to the Bureau of Detectives?

23 MS. FORDYCE: Objection to the form.

24 THE WITNESS: I am not.



1 volume, therefore, more of a need to do  
2 background checks on recruits than the volume  
3 for criminal investigations.

4 BY MS. SUSLER:

5 Q. In the time period that we're talking  
6 about here, 1998 to the present, were there  
7 statistics kept for the Polygraph Unit?

8 A. No.

9 Q. None at all?

10 MS. FORDYCE: Objection: Asked and answered.

11 THE WITNESS: No.

12 BY MS. SUSLER:

13 Q. Okay. So there were no statistics  
14 about the number of polygraph exams that were  
15 performed by Chicago Police Department polygraph  
16 examiners?

17 A. There were records for each and every  
18 polygraph exam scheduled and performed.

19 Q. But what I'm trying to find out is in  
20 terms of, was anyone monitoring or documenting  
21 the numbers of polygraph examinations performed?

22 A. I would believe that there was some  
23 counting. But it never made it to an annual  
24 report.



1 Q. And what makes you believe there was  
2 some counting?

3 A. I -- I think that's a normal activity  
4 of administrators.

5 Q. Did you ever see any documentation with  
6 respect to the number of polygraph examinations  
7 performed?

8 A. I have no specific recall. But I did  
9 do the budget for the crime lab. So I must have  
10 considered each unit's activity.

11 Q. And we're talking about the period in  
12 the '80s?

13 A. Correct.

14 Q. And since then, did you have any access  
15 to statistics with respect to the Polygraph Unit?

16 A. No, ma'am.

17 Q. If those were kept, who in the police  
18 department would be likely to have those?

19 A. I thought they might be in the  
20 department annual reports. I've looked, and I  
21 can't find any. So I don't know.

22 Q. You looked in anticipation of this  
23 deposition?

24 A. I did.



1 Q. When were you notified that you were  
2 going to be served up today as the 30(b)(6)  
3 witness?

4 MS. FORDYCE: Objection. I'm going to  
5 instruct him not to answer only to the extent  
6 you have to reveal discussions with me or with  
7 an attorney. If you can answer without  
8 revealing those discussions, you can go ahead.

9 THE WITNESS: Oh, about a week ago, maybe ten  
10 days ago.

11 BY MS. SUSLER:

12 Q. Is it fair to say that since you  
13 haven't seen statistics, that as far as you  
14 know, the department didn't keep any statistics  
15 in terms of the number of polygraph examinations  
16 that resulted in a finding of deception?

17 A. That is accurate.

18 Q. And none that reflected the number of  
19 polygraph examinations that resulted in a  
20 finding of truthful?

21 A. That's correct.

22 Q. So we wouldn't know the number of  
23 people who were found to be truthful when they  
24 denied they were guilty?



1 A. Correct.

2 Q. The number of polygraph examinations  
3 that resulted in a finding of inconclusive?

4 A. Also correct.

5 Q. Or the number of polygraph examinations  
6 that resulted in a finding that the subject  
7 wasn't suitable to be examined?

8 A. Correct.

9 Q. Or the reasons for no suitability?

10 A. Yes, ma'am.

11 Q. No statistics on that?

12 A. Correct.

13 Q. No statistics on the number of errors  
14 in polygraph examinations?

15 MS. FORDYCE: Objection to the form.

16 THE WITNESS: I don't know what you mean by  
17 errors.

18 BY MS. SUSLER:

19 Q. Times when polygraph examiners found  
20 the person to be truthful, for example, and then  
21 that that person later was convicted of an  
22 offense?

23 A. I'm not aware of any such statistic  
24 being kept.



1 Q. All right. And how about statistics on  
2 the number of confessions obtained at the  
3 Polygraph Unit?

4 A. It's -- None.

5 Q. There are no statistics?

6 A. No statistics.

7 Q. And so, then, you wouldn't have  
8 statistics on the number of confessions that  
9 were obtained in the pretest interview stage of  
10 the polygraph examination?

11 A. We would not.

12 Q. As far as you know, was there any --  
13 any kind of instruction to the individual  
14 polygraph examiners that they keep any sort of  
15 statistics about their own examinations?

16 A. No. I'm not aware of any.

17 Q. Have you ever seen any documentation of  
18 any such statistics?

19 A. No, ma'am.

20 Q. I want to just direct your attention to  
21 the Polygraph Unit as it existed in May of 2005.  
22 As far as you know, other than what you've  
23 already told me, were there any other  
24 departmental rules or regulations or orders that



1 working to be available. And that didn't  
2 happen.

3 Q. Was there any rule or guideline  
4 prohibiting a detective from requesting a  
5 specific examiner?

6 A. No. There's nothing on the subject.

7 Q. As of May of 2005, was there any police  
8 department policy, practice, or procedure  
9 regarding what school of polygraph examination a  
10 Chicago Police officer had to have attended in  
11 order to conduct polygraph examinations?

12 A. There was not.

13 Q. Was there any policy, practice, or  
14 procedure in May of 2005 about what technique a  
15 polygraph examiner had to use in performing  
16 polygraph examinations?

17 MS. FORDYCE: Objection to the form.

18 THE WITNESS: There was not.

19 BY MS. SUSLER:

20 Q. Or what kind of scoring of a polygraph  
21 examination in a criminal investigation the  
22 examiner had to use?

23 A. There was not.

24 Q. What, if any, peer review was there of





1 polygraph examinations in May of 2005?

2 A. Nothing formalized. I do believe on  
3 occasion there was informal peer review, review  
4 of charts amongst the polygraph examiners. But  
5 there was nothing written on the topic.

6 Q. So if they wanted to do that, they  
7 could; if they didn't want to, they didn't have to?

8 A. Correct.

9 Q. And was there any documentation that  
10 you're aware of on those occasions when, if  
11 there were any, they did consult and do any kind  
12 of a consultation, was there any documentation  
13 of that that you're aware of?

14 MS. FORDYCE: Objection to the form.

15 THE WITNESS: There was no documentation.

16 BY MS. SUSLER:

17 Q. Was there any policy, practice, or  
18 procedure as of May 2005 with respect to  
19 requiring continuing education with respect to  
20 polygraph examination of the examiners in the  
21 department?

22 A. There is no department requirement, nor  
23 is there a license requirement for same.

24 Q. Was there any monitoring with respect



1 to whether the polygraph examiners maintained  
2 their state licenses?

3 A. That's a good question.

4 Q. I try.

5 MS. FORDYCE: I think they've all been good,  
6 Jan.

7 MS. SUSLER: Keep it coming.

8 THE WITNESS: Nothing in writing. We do ask  
9 police officers to show that they have their  
10 driver's license active and see. So ...

11 BY MS. SUSLER:

12 Q. Was there any monitoring of the status  
13 of the examiner's state licenses in terms of  
14 whether there had been any complaints  
15 registered, for example, or any discipline from  
16 the State?

17 A. I am not aware of any.

18 Q. Was there any -- any quality control of  
19 the Polygraph Unit in between 1998 and the  
20 present?

21 A. Their professional obligation to  
22 themselves.

23 Q. Is that the only quality control?

24 MS. FORDYCE: Objection to the form.



1 THE WITNESS: Are you referring to their  
2 showing up to work or the way they perform their  
3 duties?

4 BY MS. SUSLER:

5 Q. All of the above.

6 A. Well, quality control, shows up on  
7 time, that's by a supervisor. And all those  
8 other department-wide obligations also fall upon  
9 the polygraph examiners.

10 Q. How about any quality control with  
11 respect to their function as a polygraph  
12 examiner versus just any other Chicago Police  
13 officer, any quality control with respect to  
14 that?

15 A. No.

16 Q. So basically, you left it to the  
17 individual polygraph examiners to fulfill  
18 whatever they determined their professional  
19 obligations to be?

20 MS. FORDYCE: Objection: Misstates prior  
21 testimony; to the form.

22 THE WITNESS: The polygraph examination is  
23 done in a room with just a subject, unless  
24 there's a trainee in the room. It does not lend



1    itself for visual observations of what goes on  
2    behind closed door of a polygraph examination.  
3    So it's a little bit more unique of a situation  
4    for supervisors.

5    BY MS. SUSLER:

6       Q.    Now, as of July of 2005, polygraph  
7    examinations in homicide cases were required to  
8    be recorded, correct?

9       A.    Yes.

10      Q.    And what, if any, quality control was  
11    implemented as of that date which obviates the  
12    concern that you just expressed?

13      A.    Any authorized investigative personnel  
14    or their supervisors could review these -- these  
15    tapes.

16      Q.    What documentation exists as -- in  
17    terms of any quality control of the Polygraph  
18    Unit that was done subsequent to the general  
19    order requiring recording of polygraph  
20    examinations in homicide cases?

21      A.    None that I'm aware of.

22      Q.    Let's go back to the -- your answer  
23    about the fact that the polygraph examination  
24    occurs with just the polygraph examiner and the



1 MS. FORDYCE: Objection to the form: Calls  
2 for speculation; incomplete hypothetical;  
3 foundation.

4 THE WITNESS: I understand your point here.  
5 But I don't think we want to establish as  
6 managers a competitive playground where people  
7 are comparing their batting averages, whatever  
8 the topic might be; how come a certain latent  
9 fingerprint examiner can only bring in  
10 X percentage of prints which are suitable for  
11 comparison? How come one's are always so messy?  
12 I get it.

13 BY MS. SUSLER:

14 Q. Mm-hmm.

15 A. But polygraph examiners are recognized  
16 as professionally licensed, and we have to  
17 respect their opinions. We have no reason to  
18 believe they're acting anything other than in  
19 accordance with their profession.

20 Q. So basically, the quality control was  
21 to trust the polygraph examiner to do what  
22 they're licensed to do?

23 MS. FORDYCE: Objection to the form:  
24 Misstates prior testimony.



1 THE WITNESS: Correct.

2 MS. FORDYCE: Jan, do you anticipate going  
3 another two hours at least?

4 MS. SUSLER: Yes.

5 MS. FORDYCE: Okay. Thanks.

6 MS. SUSLER: I mean, if we get done earlier,  
7 that's great.

8 MS. FORDYCE: I know. I was just asking for  
9 an estimate for parking.

10 (whereupon, a discussion was had  
11 off the record.)

12 BY MS. SUSLER:

13 Q. What, if any, police department policy,  
14 practice, or procedure existed between 1998 and  
15 the present with respect to false confessions?

16 MS. FORDYCE: Objection.

17 Can you repeat the question.

18 (whereupon, the record was read  
19 as requested.)

20 MS. FORDYCE: Okay. Objection. That's  
21 beyond the scope of the 30(b)(6) notice.

22 MS. SUSLER: I can amend the question to say  
23 within the Polygraph Unit.

24 MS. FORDYCE: Thank you. Then I'll withdraw.



1 THE WITNESS: None.

2 BY MS. SUSLER:

3 Q. Is it fair to say that there was no  
4 policy, practice, or procedure within the  
5 Polygraph Unit to avoid false confessions --

6 MS. FORDYCE: Objection to the form.

7 BY MS. SUSLER:

8 Q. -- other than to rely on the individual  
9 polygraph examiner to perform according to his  
10 or her licensure?

11 A. When do you stop beating your wife? I  
12 mean, that's -- I think that question was  
13 totally negative. I'm trying to understand it.  
14 Could you do it one more time?

15 Q. All right. I'll -- I'll try to  
16 rephrase it.

17 what, if any, policy, practice, or  
18 procedure has existed between 1998 and the  
19 present to ensure that there are no false  
20 confessions? And I'm talking about with respect  
21 to the Polygraph Unit.

22 A. Right. You answered my question by  
23 saying in accordance to their own training as  
24 professional licensed polygraph examiners.



1 Q. But that's it?

2 A. Yes.

3 Q. You relied on the individual polygraph  
4 examiner to know that he or she should not  
5 extract a false confession in the context of a  
6 polygraph examination?

7 MS. FORDYCE: Objection to the form and  
8 misstates the prior testimony.

9 THE WITNESS: Correct.

10 BY MS. SUSLER:

11 Q. What, if any, review or supervision or  
12 quality control existed to ensure that the  
13 individual polygraph examiners were practicing  
14 within their professional license so as to avoid  
15 obtaining false confessions in the polygraph  
16 context?

17 MS. FORDYCE: Objection to the form.

18 THE WITNESS: On occasion, polygraph  
19 examiners would go for continuing training.  
20 It's not something required. Sometimes the  
21 Chicago Police Department would finance it, and  
22 sometimes the individual polygraph examiners  
23 would finance their own continuing education.  
24





1 department just assumed that the individual  
2 polygraph examiner was going to comport him or  
3 herself according to their polygraph license  
4 requirements?

5 A. Correct. And if there were reasons to  
6 believe they were not conforming or actually in  
7 violation of some standard or behavior, then we  
8 do have procedures in place from informal  
9 counseling to formal discipline.

10 Q. Are you aware of an instance where that  
11 ever happened with respect to a polygraph  
12 examiner's performance of his or her duty as a  
13 polygraph examiner at all?

14 A. I have no personal knowledge.

15 Q. So that would be true with respect to  
16 false confessions?

17 A. Yes.

18 Q. And that would be true with respect to  
19 fabricated confessions?

20 A. Yes.

21 Q. What, if any, police department policy,  
22 practice, or procedure existed in 1998 to the  
23 present with respect to police department  
24 detectives and officers not using the Polygraph



1 Unit and polygraph examinations as a tool to  
2 obtain false or fabricated confessions?

3 MS. FORDYCE: Objection to the form:  
4 Argumentative.

5 THE WITNESS: There is nothing written on  
6 topic.

7 BY MS. SUSLER:

8 Q. Let's go back to the SOP for a minute,  
9 the 39 and 39. I just want to be sure, and I  
10 apologize, but I think you already told me this.  
11 The Exhibit 38 was the one that would have been  
12 in effect as of May of 2005?

13 A. Yes, ma'am.

14 Q. Do you know what, if anything, was done  
15 to monitor compliance with the SOP?

16 A. The guidelines were for the members of  
17 the Polygraph Unit. There was no audit.  
18 Case-by-case basis, if the supervisor saw  
19 something that was unacceptable, it's the  
20 supervisor's responsibility to take action.

21 Q. Well, as you said earlier, if the  
22 polygraph examination was taking place in a  
23 private in a room with the polygraph examiner  
24 and the subject, how would the supervisor see



1 that?

2 A. Correct.

3 Q. And if the supervisor wasn't a  
4 polygraph examiner and couldn't examine the  
5 charts, how could the polygraph examiner -- or  
6 how could the supervisor do that?

7 A. Right.

8 Q. And if there weren't any statistics,  
9 how could the supervisor do that?

10 A. I understand.

11 Q. Was there ever an instance that you are  
12 aware of that a supervisor documented a problem  
13 with respect to compliance with the SOP?

14 A. I am not aware of any.

15 Q. Would it surprise you to know that  
16 Polygraph Examiner Bartik testified that he  
17 practiced as a polygraph examiner for some three  
18 or four years before he even knew about this  
19 SOP?

20 A. Yes, it would.

21 Q. Would it tell you that nothing was done  
22 to monitor compliance with the SOP while he was  
23 in his first three or four years of practice?

24 MS. FORDYCE: Objection: Form; foundation.



1 BY MS. SUSLER:

2 Q. But go ahead.

3 A. I -- I don't know if it means arrived  
4 or the time of examination.

5 Q. And the form doesn't say?

6 A. No, it does not.

7 Q. And what kind of quality control was  
8 there with respect to polygraph examiners to  
9 determine that they were all using this form in  
10 the same way?

11 A. I don't know if it was an issue.

12 Q. Well, my question is --

13 A. There's no audit.

14 Q. That was actually -- You anticipated my  
15 next question.

16 what -- Are you aware of any audit from  
17 1998 to the present of the Polygraph Unit?

18 A. I am not.

19 Q. Are you aware of any kind of -- well,  
20 let's start internal first -- any kind of  
21 internal assessment, analysis, evaluation of the  
22 Polygraph Unit?

23 MS. FORDYCE: Objection: Asked and answered.  
24



1 practices, and customs. It doesn't talk -- I  
2 mean, I'm going to let him answer. But he can't  
3 answer in his official capacity.

4 MS. SUSLER: No. The question goes to his  
5 knowledge of any assessment or review of the  
6 Polygraph Unit. That's what the question is,  
7 and that's in the notice. And he needs to  
8 answer as a 30(b)(6) witness.

9 MS. FORDYCE: Well, I maintain my objection  
10 because you're not asking about an assessment,  
11 which is a generic question that he has been  
12 answering. You're talking about specifically  
13 what was in the mind of a specific  
14 superintendent. I think that's beyond the  
15 scope.

16 MS. SUSLER: No. Then I'll reask it, because  
17 I want it to be clear.

18 BY MS. SUSLER:

19 Q. Your testimony is that each  
20 superintendent has to come in and try to figure  
21 out how to allocate resources best.

22 A. Yes.

23 Q. I understand that. I'm asking you to  
24 tell me if you're aware of any specific



1 assessment or review of the Polygraph Unit by  
2 any superintendent?

3 MS. FORDYCE: Objection to the form.

4 THE WITNESS: Not the Polygraph Unit, but --  
5 Not the Polygraph Unit, no.

6 BY MS. SUSLER:

7 Q. Okay. I'm glad we got that  
8 straightened out.

9 And, you know, we've been focusing in  
10 these questions about assessments or evaluations  
11 or reviews internally. Are you aware of any  
12 external, outside the Chicago Police Department  
13 review of the Polygraph Unit or any individual  
14 polygraph examiner?

15 A. No.

16 Q. Is there any other measure of quality  
17 control with respect to the Polygraph Unit that  
18 you haven't already told me about?

19 A. No, there's not.

20 Q. Let me just ask you some questions in  
21 terms of workload in the Polygraph Unit.

22 How, if at all, did the department keep  
23 track of the work done in the Polygraph Unit?

24 A. It's viewed as a resource that's



1 offered to investigative units. I can find no  
2 documentation as to records which documented  
3 the -- the volume. But honestly, I -- we would  
4 have to have a head count somewhere. And I  
5 don't know if it ever was reduced to a formal  
6 report.

7 Q. You're not aware of any?

8 A. No.

9 Q. So is there any record of the number of  
10 polygraph examinations per polygraph examiner?

11 MS. FORDYCE: Objection: Asked and answered.

12 BY MS. SUSLER:

13 Q. Like, in a week or a month or a year?

14 A. No, there's not.

15 Q. Was there ever a quota for the number  
16 of polygraph examinations polygraph examiners  
17 should do per shift or week or month or year?

18 MS. FORDYCE: Objection to the form.

19 THE WITNESS: No.

20 BY MS. SUSLER:

21 Q. Was there ever a limit on the number of  
22 polygraph examinations that an examiner should  
23 do per shift?

24 A. No, there was not.



1 Q. what was done to monitor the workload  
2 distribution within the Polygraph Unit?

3 MS. FORDYCE: Objection to the form.

4 THE WITNESS: They would -- The first  
5 available or next up. They would take turns.

6 BY MS. SUSLER:

7 Q. And you know that because?

8 A. I was a sergeant in the crime  
9 laboratory.

10 Q. So you know that just from having been  
11 there?

12 A. Correct.

13 Q. And that was in the '80s?

14 A. Correct.

15 Q. And what about after you were no longer  
16 there, what is your knowledge about workload  
17 distribution within the Polygraph Unit?

18 A. I do not know how it's done.

19 Q. Are you aware of -- Is there a way to  
20 determine -- well, strike that.

21 what, if any, documentation exists of  
22 complaints detectives have made about the  
23 Polygraph Unit or particular polygraph  
24 examiners?





1 MS. FORDYCE: Hold on.

2 Could you please read that back.

3 (Whereupon, the record was read  
4 as requested.)

5 MS. FORDYCE: Objection to the form.

6 THE WITNESS: There is no documentation of  
7 that. However, if such incidents existed, the  
8 complaint could be handled either informally or  
9 formally.

10 BY MS. SUSLER:

11 Q. Are you aware of any such complaints?

12 A. I am not.

13 Q. Is there a central repository for any  
14 such complaints?

15 A. Formal complaints.

16 Q. Where would that be?

17 A. The Independent Police Review  
18 Authority.

19 Q. Okay. But in terms of if anyone -- Are  
20 you aware of any mechanism in the police  
21 department for collecting complaints about the  
22 Polygraph Unit or an individual polygraph  
23 examiner other than IPRA?

24 MS. FORDYCE: Objection to form.



1 THE WITNESS: I'm not aware of there being  
2 complaints, yet there are processes to address  
3 performance deficiencies. Or perhaps I observed  
4 the way that you interact with someone, and I  
5 could counsel you, counsel the person.

6 BY MS. SUSLER:

7 Q. I guess what I'm trying to find out is  
8 has the department ever set up a mechanism to  
9 collect specifically complaints about the  
10 Polygraph Unit or any individual polygraph  
11 examiner?

12 A. No.

13 Q. And do you agree that that could be a  
14 way of monitoring the functioning of the  
15 Polygraph Unit and the examiners?

16 MS. FORDYCE: Objection: Foundation;  
17 lacks -- Strike that.

18 Objection: Form, foundation, calls for  
19 speculation.

20 THE WITNESS: It might be one indicator.

21 BY MS. SUSLER:

22 Q. Let me just ask you with respect to  
23 polygraph examiners testifying as witnesses, are  
24 you aware of whether in the Polygraph Unit,



1 afield or outside the scope.

2 MS. SUSLER: All right.

3 THE WITNESS: The Chicago Police Department  
4 has, over the years, strived to find out what  
5 happened in court from various members'  
6 appearances in court. You know, and for a  
7 while, we had -- we required detectives to  
8 submit a court attendance report.

9 what happened? It was continued.

10 what happened? There was a motion.  
11 They didn't need me.

12 what happened? It was nolle pros'ed.

13 Or whatever the disposition might be.  
14 But we have -- We no longer have that report.  
15 We didn't learn much from it.

16 So there is no mechanism in place to  
17 document testimony to dispositions.

18 BY MS. SUSLER:

19 Q. So is it fair to say that there isn't a  
20 mechanism set up, for example, to monitor a  
21 polygraph examiner's, let's call it, success,  
22 for lack of a better term?

23 For example, if the polygraph examiner  
24 testifies that a person lied when -- or was



1 deceptive as a result of the polygraph  
2 examination, but a state's attorney dismisses  
3 the case, or a jury finds the person not guilty.  
4 There's no mechanism to determine whether that  
5 happens or the frequency with which it happens?

6 MS. FORDYCE: Objection. Objection:  
7 Foundation; speculation; incomplete  
8 hypothetical; outside of the scope of the  
9 30(b)(6).

10 THE WITNESS: No. There's not.

11 MS. SUSLER: We can take a break.

12 THE VIDEOGRAPHER: Off the record, 11:44.

13 (Whereupon, a short break was  
14 taken.)

15 THE VIDEOGRAPHER: Back on the record, 12:03.

16 MS. SUSLER: Avi and Shneur, are you there?

17 MR. KAMIONSKI: Yes.

18 MR. NATHAN: Yes.

19 BY MS. SUSLER:

20 Q. All right. Are you aware of any  
21 mechanism for monitoring what happens with  
22 respect to polygraph examiners' testimony in  
23 criminal cases?

24 MS. FORDYCE: Objection: Beyond the scope of



1 BY MS. SUSLER:

2 Q. Right. Or it may just be that the  
3 individual who's suing the polygraph examiner  
4 doesn't cooperate with the investigation of the  
5 CR, and therefore the CR is closed, unfounded?

6 A. Correct.

7 well, the -- there is a rather hard and  
8 fast rule regarding complaints that if the  
9 original complaint is not followed up by an  
10 affidavit, there is no obligation to go further  
11 with the investigation of the allegation.

12 Q. I'm aware of that.

13 A. Okay.

14 Q. Are you aware of whether, regardless of  
15 what IPRA, or previously OPS, decides to do with  
16 a complaint against a polygraph examiner that is  
17 named as a defendant in a lawsuit, are you aware  
18 of any other mechanism in the police department  
19 to look at the allegations with an eye to  
20 determining what went wrong, how that behavior  
21 could be avoided in the future, that kind of  
22 thing?

23 MS. FORDYCE: Objection to the form.  
24



1 BY MS. SUSLER:

2 Q. Other than the Legal Department.

3 A. Well, our Legal Department is part of  
4 the story. They're the -- probably the first to  
5 get feedback, what happened. And we as  
6 responsible administrators, managers, will  
7 strive to take something from the lessons  
8 learned. Is it formalized? I think it's on a  
9 case-by-case incident. Was it about tasers?  
10 Was it about perjury? Each civil suit may  
11 provide us with new insights into our own  
12 organization as to how we may or may not improve  
13 policy or procedures.

14 Q. Is there a formal mechanism to do what  
15 you just described?

16 MS. FORDYCE: Objection to the form: Vague.

17 THE WITNESS: I know you don't want to hear  
18 this, but our Legal Affairs meets with the  
19 Department of Law regularly on such matters.  
20 And those interested -- Not those interested.  
21 Those units of the police department are  
22 subsequently contacted to discuss the matter if,  
23 in fact, it falls in their jurisdiction.



1 BY MS. SUSLER:

2 Q. Is there a documented policy to that  
3 effect?

4 A. No. I think it's just good management.

5 Q. Just sort of an informal way of doing  
6 things?

7 MS. FORDYCE: Objection: Misstates prior  
8 testimony; argumentative.

9 THE WITNESS: Not every aspect of every job  
10 has an SOP.

11 BY MS. SUSLER:

12 Q. Okay. There's nothing that requires  
13 that kind of an analysis?

14 A. No. But I think we have an obligation  
15 to the public.

16 Q. What -- what have you seen in the way  
17 of monitoring lawsuits with respect to polygraph  
18 examiners named as defendants in a civil  
19 litigation?

20 MS. FORDYCE: Objection: Outside the scope  
21 of the 30(b)(6); foundation; speculation.

22 THE WITNESS: I've seen nothing other than  
23 the little bit I read in the Bartik deposition,  
24 there was such an incident. But I have no



1 knowledge about the incident or what it was  
2 about.

3 BY MS. SUSLER:

4 Q. When you say the Bartik deposition, you  
5 mean in Nicole Harris' case?

6 A. Yes.

7 Q. Okay. And other than that, are you  
8 aware of any -- anyone in the police department  
9 looking at, in any kind of analytical way, the  
10 litigation against individual polygraph  
11 examiners in the years 1998 to the present?

12 MS. FORDYCE: Objection to the form;  
13 foundation; outside the scope of the 30(b)(6)  
14 notice.

15 THE WITNESS: I am not.

16 BY MS. SUSLER:

17 Q. Do you know how much money the City has  
18 paid in settlements or verdicts in litigation  
19 against individual polygraph examiners?

20 MS. FORDYCE: Objection: Outside the scope  
21 of the 30(b)(6); foundation.

22 THE WITNESS: I do not.

23 BY MS. SUSLER:

24 Q. Do you know the number of lawsuits that





1 have named polygraph examiners as individual  
2 defendants?

3 MS. FORDYCE: Same objections.

4 THE WITNESS: I do not.

5 BY MS. SUSLER:

6 Q. Do you know the names of any of the  
7 plaintiffs in any of those cases?

8 MS. FORDYCE: Same objections.

9 THE WITNESS: I read one. The defendant may  
10 have been Bartik, the polygraph examiner. But  
11 only from reading that Harris deposition.

12 BY MS. SUSLER:

13 Q. Do you know the names of any other  
14 polygraph examiners who have been sued in civil  
15 cases?

16 A. I don't.

17 Q. And do you know the names of any of the  
18 plaintiffs who've sued any of the individual  
19 polygraph examiners?

20 A. I do not.

21 Q. Are you aware of whether, as a result  
22 of any civil litigation, any polygraph examiner  
23 has ever been disciplined?

24 A. I am not aware of such.

